

No. 2497

United States Circuit Court of Appeals

For the Ninth Circuit

In the Matter of

M. BARDE and J. LEVITT, individually,
and as partners as BARDE & LEVITT,
Bankrupts.

TRANSCRIPT OF RECORD

On Review of the order of the District Court of the
United States for the District of Oregon, setting
aside exempt property.

Filed

OCT 19 1914

F. D. Monckton,
Clerk.

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United States Circuit Court of Appeals

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TT, individually,
E & LEVITT,
Bankrupts.

OF RECORD

the District Court of the
District of Oregon, setting

Attorneys of Record.

LL, Yeon Building,
For the Bankrupts.
and

Henry Building,

For the Trustee of the estate of the Bankrupts.

IN THE DISTRICT COURT OF THE UNITED
STATES FOR THE DISTRICT OF
OREGON.

BE IT REMEMBERED, that on the 28th day of August, A. D. 1914, there was duly filed in the District Court of the United States for the District of Oregon, a petition to the United States Circuit Court of Appeals for Review of an order of the District Court of the United States for the District of Oregon, in words and figures as follows, to wit:

PETITION FOR REVIEW.

IN THE UNITED STATES CIRCUIT COURT
OF APPEALS

For the Ninth Circuit.

Petition to Review in Bankruptcy.

In the Matter of

M. BARDE and J. LEVITT, individually,
and as partners as BARDE & LEVITT,
Bankrupts.

To the Honorable Judges of the United States Circuit Court of Appeals for the Ninth Circuit:

Your petitioner, R. L. Sabin, a citizen of the United States, residing in the City of Portland, in the State of Oregon, respectfully shows:

I.

That on the 7th day of March, 1913, the said M.

Barde and J. Levitt, partners as Barde & Levitt, and M. Barde, individually, and J. Levitt, individually, were duly adjudged bankrupts by the District Court of the United States for the District of Oregon, and thereafter on the 1st day of April, 1913, your petitioner was duly elected and appointed trustee of said bankrupt estates, and ever since has been and now is the duly appointed, qualified and acting trustee thereof.

II.

That at the time of the filing of the petition and schedules in bankruptcy in said District Court said bankrupt, M. Barde, was and still is the owner of lot nine (9) in block fifteen (15) in Goldsmith's Addition to the City of Portland, in Multnomah County, State of Oregon, of the dimensions of fifty (50) feet by one hundred (100) feet, on which there was and is a residence building which was then and is now occupied and used by said Mr. Barde and his family as a home; that the same was and is listed and valued in the schedules of assets filed by said M. Barde on the 15th day of March, 1913, herein at the sum of \$12,000, and was and is claimed by said M. Barde as a homestead and exempt as such under the laws of Oregon.

III.

That said house and lot was appraised by the appraisers in said bankruptcy proceeding as being worth the sum of \$20,000 and is worth the full of sum of \$12,000 in cash; that the same cannot be divided nor segregated without material injury to the tract, nor

can a homestead of the value of no more than \$1500 be set apart in specie out of said property.

IV.

That petitioner as such trustee did not report or set aside said house and lot as a homestead exempt from sale in payment of the debts of said bankrupt, and on the 11th day of April, 1914, filed his petition with Honorable B. N. Hicks, one of the referees in bankruptcy in the District Court of the United States for the District of Oregon, to whom said cause had regularly been referred, praying for an order directing the sale of said lot free from homestead claim of said bankrupt, and that the sum of \$1500 out of the proceeds of such sale be paid to said bankrupt, M. Barde, as and for his homestead rights in said lot, or for a re-appraisal and valuation of said house and lot and an order requiring said bankrupt to pay to your petitioner as such trustee such sum as said re-appraisal and valuation may exceed \$1500, in default of which the trustee be directed to sell said land.

V.

That after due notice to all the creditors of said bankrupts of a meeting to consider said petition, a hearing was duly had thereon before said referee in bankruptcy on the 30th day of April, 1914, and an order was duly made, rendered and entered by said referee authorizing and directing R. L. Sabin as trustee in bankruptcy of said bankrupt estates to sell said lot at public auction, after legal notice of sale, to the highest bidder for cash, for not less than \$1500, unless said M. Barde

shall on or before the date of such sale pay to said trustee the sum of \$10,500 in cash for the benefit of the creditors of said estate.

VI.

That thereafter on the 7th day of May, 1914, a certificate of review of said proceedings and order was duly granted to and filed in the District Court of the United States for the District of Oregon, by the said referee, and thereafter on or about the 8th day of June, 1914, an order was duly made and entered in and by said District Court reversing the order of said referee. That said order of said District Court, omitting formal parts, is as follows:

“This cause was heard upon the review of the order of the referee in bankruptcy herein directing that lot 9, in block 15, in Goldsmith’s Addition to the City of Portland, Multnomah County, Oregon, belonging to the bankrupt M. Barde, be sold by the trustee, and upon the motion of the trustee to confirm said order of the referee, and was argued by Mr. R. R. Giltner, of counsel for said bankrupt, and by Mr. Thomas G. Greene, of counsel for said trustee. And it appearing to the court that said property was claimed by the said bankrupt to be exempt and that said property is exempt under the bankrupt law;

It is therefore ordered and adjudged that the order of the referee directing the sale of said property be, and the same is hereby, overruled, and that said property be, and the same is hereby, set aside to the said bankrupt, M. Barde, as exempt property.”

VII.

That said order was and is erroneous as a matter of law in that:

1. The statutes of the State of Oregon (Lord's Oregon Laws, Sections 221, 222, 224 and 225) upon which your petitioner relied for his right to sell said house and lot, give him, in right of his status under section 47 of the bankrupt law, the right, option and privilege of realizing and appropriating for the creditors of the bankrupt all of the value of said homestead in excess of \$1500.

2. That petitioner is entitled to sell said homestead, regardless of its area or dimensions, upon payment to said bankrupt of the sum of \$1500.

Wherefore your petitioner feeling aggrieved because of said order, asks that the same may be revised in matter of law, by this Honorable Court, as provided in Sections 24-*b* of the Bankruptcy Act, and the rules of practice in such case provided, and that the same be reversed, and for such other and further relief as may be just and proper.

R. L. SABIN,

Petitioner.

BAUER & GREENE and

A. H. McCURTAIN,

Solicitors for Petitioner.

United States of America,)
State and District of Oregon,) ss.
Multnomah County.)

R. L. Sabin makes oath and says that he is the

petitioner above named, and the foregoing petition for revision and review is true as he verily believes.

R. L. SABIN.

Subscribed and sworn to before me this 27th day of August, 1914.

(Notarial Seal)

SIDNEY TEISER,
Notary Public for Oregon.

Due and legal service of the foregoing petition in Portland, Oregon, is hereby admitted and accepted this 28th day of August, 1914.

GILTNER & SEWELL,
Solicitors for M. Barde.

Filed August 28, 1914. G. H. MARSH, Clerk.

And, to wit: on the 7th day of May, 1914, there was duly filed in said court, a certificate by the referee to the court for review, together with petition of trustee for sale of real property, order of referee for sale of real property, in words and figures as follows, to wit:

REFEREE'S CERTIFICATE.

IN THE DISTRICT COURT OF THE UNITED
STATES FOR THE DISTRICT OF
OREGON.

In the Matter of

M. BARDE and J. LEAVITT, partners as
BARDE & LEAVITT, and M. BARDE
individually, and J. LEAVITT individ-
ually,

Bankrupts.

To the Honorable, the District Judges of the above
entitled court:

I, B. N. Hicks, the referee in bankruptcy in charge
of this proceeding, do hereby certify:

That in the course of such proceeding the foregoing
order and decree was made and entered on the 30th day
of April, 1914, and thereupon on said day, feeling ag-
grieved thereat, said bankrupt, M. Barde, by R. R.
Giltner, of counsel, demanded a review, which was
granted.

That a summary of the evidence is contained in the
findings included in said order and decree.

That the questions presented on this review are:

First. Is the bankrupt, M. Barde, entitled to have
the whole of lot 9, in block 15, in Goldsmith's Addition
to the City of Portland, Multnomah County, Oregon,

set apart as a homestead exempt from sale for payment of his debts notwithstanding the value thereof exceeds \$1500?

Second. Has this court, as a court of bankruptcy, power to authorize and direct the sale of said property by the trustee for not less than \$1500, for the benefit of the creditors of said bankrupt to the extent of the whole of the proceeds of such sale in excess of \$1500?

I hand up herewith, for the information of the judge, all papers filed with me herein which are pertinent to this review, to wit: the petition of R. L. Sabin as trustee, for the sale of said land. The schedules of said bankrupts and the report of the appraisers of said estate have heretofore been filed with the clerk of this court.

Dated Oregon City, May 2, 1914.

Respectfully submitted,

B. N. HICKS,
Referee in Bankruptcy.

Filed May 7, 1914. A. M. CANNON, Clerk.

PETITION OF TRUSTEE FOR SALE OF
REAL PROPERTY.

IN THE DISTRICT COURT OF THE UNITED
STATES FOR THE DISTRICT OF
OREGON.

In the Matter of

M. BARDE and J. LEAVITT, partners, as
BARDE & LEAVITT, and M. BARDE
individually, and J. LEAVITT individ-
ually,

Bankrupts.

HON. B. N. HICKS, referee in Bankruptcy.

Now comes R. L. Sabin, the duly appointed, quali-
fied and acting trustee of the above entitled bankrupt
estates, and respectfully shows:

I.

That said bankrupt, M. Barde, is the owner of lot
nine (9), in block fifteen (15), in Goldsmith's Addi-
tion to the City of Portland, in Multnomah County,
State of Oregon, which was listed in the schedules of
said bankrupt filed herein at an estimated value of
\$12,000, and was claimed by said bankrupt as exempted
under the laws of Oregon as a homestead.

II.

That said property consists of one city lot approxi-
mately fifty by one hundred feet, and a house occupied

by said bankrupt as a home, and was appraised by the appraisers herein as being worth the sum of \$20,000.

III.

That your petitioner, as trustee in bankruptcy, has not set aside nor reported said lot as a homestead exempt from sale in payment of the debts of said bankrupt, for the reason that the same greatly exceeds in value the maximum valuation of \$1500 of a homestead provided by the laws of Oregon, and a homestead of the value of \$1500 only, cannot be segregated and set apart out of said lot without material injury, and it is for the best interests of all concerned that the same be held and sold as a single tract.

IV.

That it would be for the benefit of said estate that said real property be sold as an entire tract or parcel at public auction to the highest bidder for cash in hand.

Wherefore petitioner prays that a meeting of creditors be called on ten days' notice to consider the sale of said real property as aforesaid; that an order be made directing the sale of said lot free from homestead claim of said bankrupt, and that the sum of \$1500 out of the proceeds of such sale be paid to said bankrupt, M. Barde, as and for his homestead rights; and that in case this honorable court may decree it proper, appraisers be appointed by the referee to re-appraise and fix a valuation of said land and that said bankrupt be permitted by order of court to pay to the trustee within a time to be fixed, such sum as such valuation and

appraisement may exceed \$1500, in default of which the trustee be directed to sell said land as aforesaid; and for such other, further or different order in the premises, as upon said hearing, the court may deem just and equitable.

Dated April 10, 1914.

BAUER & GREENE and
A. H. McCURTAIN,
Solicitors for Trustee.

State of Oregon,)
) ss.
Multnomah County,)

I, R. L. Sabin, being first duly sworn, say that I am the petitioner above named, and trustee of the above entitled bankrupt estate; that the foregoing petition is true, as I verily believe.

R. L. SABIN.

Subscribed and sworn to before me this 10th day of April, A. D. 1914.

(Notarial Seal)

H. KETTERMAN,
Notary Public for Oregon.

State of Oregon,)
) ss.
County of Multnomah.)

Due service of the within petition is hereby accepted in Multnomah County, Oregon, this 10th day of April, 1914, by receiving a copy thereof, duly certified to as

such by T. G. Greene, attorneys for petitioner and trustee.

GILTNER & SEWELL,
Attorneys for bankrupt, M. Barde.

Filed May 7, 1914. A. M. CANNON, Clerk.

ORDER OF REFEREE FOR SALE OF REAL
PROPERTY.

IN THE DISTRICT COURT OF THE UNITED
STATES FOR THE DISTRICT OF
OREGON.

In the Matter of

M. BARDE and J. LEAVITT, partners, as
BARDE & LEAVITT, and M. BARDE
individually, and J. LEAVITT individ-
ually,

Bankrupts.

This cause coming on regularly to be heard this day before the undersigned referee in bankruptcy, to whom this cause was heretofore duly referred, on the petition of R. L. Sabin as trustee of the above entitled bankrupt estates for the sale of lot 9, in block 15, in Goldsmith's Addition to the City of Portland, Multnomah County, State of Oregon, heretofore filed herein, petitioner appeared by Thomas G. Greene, of counsel, and the bankrupt, M. Barde, appeared in person and by R. R. Giltner, of counsel.

And it satisfactorily appearing to the undersigned referee in bankruptcy and the court finds as follows:

I.

That at the time of the filing of the petitions and schedules of said bankrupts herein, M. Barde was the owner of said lot and then and now with his family occupies the same as a home; that the same was and is listed in his schedules herein at an estimated valuation of \$12,000, and was therein claimed by said M. Barde as exempted under the laws of Oregon as a homestead, and now at this time and upon this hearing, in open court, his counsel claims that said property and the whole thereof, regardless of its value, is, and should be, exempted from sale by the trustee as the homestead of said bankrupt, M. Barde.

II.

That said property consists of one city lot approximately 50 feet by 100 feet in size, on which said bankrupt, prior to his bankruptcy, erected a house; that said house and lot was appraised by the appraisers herein as being worth the sum of \$20,000; that the trustee herein has not reported nor set aside said house and lot as a homestead exempt from sale in payment of the debts of said bankrupt; that the same cannot be divided nor segregated without material injury to the tract, nor can a homestead of the value of no more than \$1500 be set apart in specie out of said property. That said property is actually worth the sum of \$12,000.

III.

That more than ten days prior to the 30th day of April, 1914, printed notices of this meeting of the creditors of said bankrupts, for the purpose of this hearing and of the proposed sale of said property, were duly mailed to all of the creditors of said bankrupts.

And from the foregoing facts the court concludes as follows:

FIRST.

That said bankrupt, M. Barde, is entitled to a homestead exemption to the extent and amount of \$1500, and no more, out of said lot 9, in block 15, in Goldsmith's Addition to the City of Portland, Multnomah County, State of Oregon, and said sum of \$1500 can be set apart to said bankrupt only by the sale of said property, which is incapable of division or segregation without material injury to the tract.

SECOND.

That R. L. Sabin as trustee in bankruptcy of said estate is and ever since the adjudication of said M. Barde as a bankrupt herein, has been vested with the right and title to said property for the benefit of the creditors of said bankrupt, subject to a homestead exemption to the extent and value of \$1500 and no more, and said trustee is entitled to all of the proceeds of the sale of said property in excess of said sum of \$1500, to wit: the sum of \$10,500.

THIRD.

That said property should be sold at public auction to the highest bidder for cash in hand, and \$1500 of the proceeds set aside and paid to M. Barde as and for his homestead exemption, unless said M. Barde shall, prior to such sale, pay or cause to be paid to said trustee the said sum of \$10,500, in which event said house and lot should be set apart as the homestead of the said bankrupt, free and exempt from all further claims of the trustee in bankruptcy.

Now, therefore, based on the foregoing findings and conclusions, it is

ORDERED and **DECREED** that R. L. Sabin as trustee in bankruptcy of said bankrupt estates, be and he is hereby authorized and directed to sell at public auction the said lot 9, in block 15, in Goldsmith's Addition to the City of Portland, in Multnomah County, State of Oregon, and all of the right, title and interest of M. Barde therein and thereto; that said sale be made at the door of the county court house, in the City of Portland, Multnomah County, Oregon, between 9 o'clock in the morning and 4 o'clock in the afternoon; that notice thereof particularly describing said property, be given by posting a written or printed notice for four weeks successively in three public places of Multnomah County, Oregon, and publishing a copy thereof once a week for the same period in a newspaper of the same county, and that said property be sold to the highest bidder for cash, for not less than \$1500, subject to the approval and confirmation of this court.

It is further ORDERED and DECREED that if said M. Barde shall on or before such sale pay to said trustee the sum of \$10,500 in cash for the benefit of the creditors of the estate, said sale shall not be made and said entire parcel of land shall be thereupon set apart as the homestead of said M. Barde free and exempt from all further claims of said trustee in bankruptcy.

B. N. HICKS,
Referee in Bankruptcy.

Filed May 7, 1914. A. M. CANNON, Clerk.

And afterwards, to wit: on the 13th day of May, 1914, there was duly filed in said court a motion to confirm order of referee, in words and figures as follows, to wit:

**MOTION TO CONFIRM ORDER OF
REFeree.**

**IN THE DISTRICT COURT OF THE UNITED
STATES FOR THE DISTRICT OF
OREGON.**

In the Matter of

M. BARDE and J. LEAVITT, partners as
BARDE & LEAVITT, and M. BARDE
individually, and J. LEAVITT individ-
ually,

Bankrupts.

Now comes R. L. Sabin as trustee of the above entitled bankrupt estates, by Bauer & Greene and A. H.

McCurtain, his solicitors, and moves the Honorable District Court for an order and decree ratifying, approving and confirming the order and decree of Honorable B. N. Hicks, referee in bankruptcy, dated the 2nd day of May, 1914, and filed herein on the 7th day of May, 1914, authorizing and directing the sale by said trustee at public auction of all the right, title, interest and estate of M. Barde in and to lot nine (9), in block fifteen (15), in Goldsmith's Addition to the City of Portland, in Multnomah County, State of Oregon, as therein provided.

This motion is based on the report and certificate of said referee and the papers on file in the above entitled cause.

May 8, 1914.

BAUER & GREENE and
A. H. McCURTAIN,
Solicitors for Trustee.

State of Oregon,)
) ss.
County of Multnomah.)

Due service of the within motion is hereby accepted in Multnomah County, Oregon, this 13th day of May, 1914, by receiving a copy thereof, duly certified to as such, by T. G. Greene, attorney for Trustee.

R. R. GILTNER,
Attorneys for M. Barde, Bankrupt.

Filed May 13, 1914. A. M. CANNON, Clerk.

And afterwards, to wit: on Monday, the 8th day of June, 1914, the same being the 85th Judicial day of the

regular March, 1914, term of said court; present: the Honorable Robert S. Bean, United States District Judge, presiding, the following proceedings were had in said cause, to wit:

**ORDER OVERRULING ORDER OF
REFEREE AND ALLOWING
EXEMPTIONS.**

**IN THE DISTRICT COURT OF THE UNITED
STATES FOR THE DISTRICT OF
OREGON.**

No. 2288.

IN BANKRUPTCY ORDER.

In the Matter of

M. BARDE and J. LEAVITT, individually
and as partners under the firm name of
BARDE AND LEAVITT,
Bankrupts.

This cause was heard upon the review of the order of the referee in bankruptcy herein directing that lot 9, in block 15, in Goldsmith's Addition to the City of Portland, Multnomah County, Oregon, belonging to the bankrupt, M. Barde, be sold by the trustee, and upon the motion of the trustee to confirm said order of the referee, and was argued by Mr. R. R. Giltner, of counsel for said bankrupt, and Mr. Thomas G. Greene, of counsel for said trustee. And it appearing to the court that said property was claimed by the said bank-

rupt, M. Barde, to be exempt and that said property is exempt under the bankruptcy law;

IT IS THEREFORE ORDERED AND ADJUDGED that the order of the referee directing the sale of said property be, and the same is hereby overruled, and that said property be and the same is hereby set aside to the said bankrupt, M. Barde, as exempt property.

WITNESS the Honorable Robert S. Bean, Judge of said Court, and the seal thereof at Portland, in said District, this June 8, 1914.

(Seal)

A. M. CANNON, Clerk.

By G. H. MARSH, Deputy.

Filed June 8, 1914. A. M. CANNON, Clerk U. S. District Court.

And, to wit: on the 16th day of September, 1914, as of and for June 8, 1914, there was duly filed in said court, an opinion, in words and figures as follows, to wit:

OPINION.

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF OREGON.

In the Matter of

M. BARDE and J. LEVITT, partners as
BARDE & LEVITT, and M. BARDE
individually, and J. LEVITT individually,
Bankrupts.

Portland, Oregon, (Monday) June 8, 1914.

R. S. BEAN, District Judge (Oral) :

Barde was adjudged a bankrupt. He claims as exempt under the homestead law of this state the lot upon which his dwelling is located, and which it is stated in his schedule and conceded for the purposes of this case to be worth \$12,000. The Trustee in Bankruptcy insists that the limit of the homestead statute is \$1500.00 in value.

Now, the language of the homestead law is indefinite and uncertain and quite difficult, if not impossible, to reconcile. I do not think it can be determined with any certainty until we have an adjudication by a court of last resort.

The first section defines the homestead as the actual abode of the family. Section 222 says it shall not exceed \$1500.00 in value, nor 160 acres in extent, if not located in town or city laid off into blocks and lots, and if located in any such town or city, then it shall not exceed one block, but in no instance shall such homestead be reduced to less than twenty acres nor one lot, regardless of the value. So it will be seen from this section it begins by stating that the homestead shall not exceed \$1500.00 in value, and winds up with a provision that in no instance shall it be reduced to less than twenty acres nor one lot, regardless of the value.

Sections 224 and 225 provide for the method of procedure in enforcing a lien against an alleged homestead and provide that when the homestead is levied upon, the claimant may notify the officer, and such officer shall thereupon notify the creditor, and if such

homestead shall exceed the minimum in this act, which I take it means "not less than twenty acres nor one lot regardless of value," and if he deems it of greater value than \$1500.00, he may direct the sheriff to proceed in a certain manner, or in lieu of that he may pay the debtor \$1500.00 and sell the homestead under the execution.

Now, it would seem from sections 224 and 225 that the law contemplated that the homestead should not exceed under any circumstances \$1500.00 in value, but section 222 says in plain and definite language that it shall in no instance be reduced to less than twenty acres or one lot, regardless of value, and as section 222 defines the homestead and sections 224 and 225 provide a method of procedure in case of levy, the best interpretation that I can give to the act is that it intended to exempt one lot in a city or town regardless of its value, and therefore under that view the bankrupt is entitled to this exemption.

Now, this is a harsh conclusion, but if it is the law, the courts have no alternative but to enforce it. In any event this is probably as good a case as will arise for the purpose of testing the question in an appellate court.

And afterwards, to wit: on the 28th day of August, 1914, there was duly filed in said court, a motion for allowance of petition for revision, in words and figures as follows, to wit:

**MOTION FOR ALLOWANCE OF PETITION
FOR REVISION.**

**IN THE DISTRICT COURT OF THE UNITED
STATES FOR THE DISTRICT OF
OREGON.**

**APPLICATION FOR ALLOWANCE OF
PETITION FOR REVISION.**

In the Matter of

**M. BARDE and J. LEVITT individually,
and as partners as BARDE & LEVITT,
Bankrupts.**

To the Honorable Judges of the above entitled court:

The within named petitioner, R. L. Sabin, trustee in bankruptcy of the above entitled bankrupts, conceiving himself aggrieved by the order entered on the 8th day of June, 1914, in the above entitled proceeding, doth hereby present his petition for a revision and review of said order to the United States Circuit Court of Appeals for the Ninth Circuit, and prays that his said petition may be allowed, and that said petition for revision and review, accompanied by a duly authenticated transcript of the record and proceedings and papers upon which said order was made, may be sent to said Circuit Court of Appeals for the Ninth Circuit.

Dated Portland, Oregon, August 28, 1914.

**BAUER & GREENE and
A. H. McCURTAIN,**

Solicitors for Petitioner.

State of Oregon,)
) ss.
 County of Multnomah.)

Due service of the within application is hereby accepted in Multnomah County, Oregon, this 28th day of August, 1914, by receiving a copy thereof, duly certified to as such by Thos. G. Greene, solicitor for petitioner.

GILTNER & SEWELL,
 Attorneys for M. Barde, Bankrupt.

Filed August 28, 1914. G. H. MARSH, Clerk.

And afterwards, to wit: on the 28th day of August, 1914, there was duly filed in said court, a notice of presentation of petition for review, in words and figures as follows, to wit:

NOTICE OF PRESENTATION OF PETITION FOR REVIEW.

**IN THE DISTRICT COURT OF THE UNITED
STATES FOR THE DISTRICT OF
OREGON.**

NOTICE OF PRESENTATION OF PETITION FOR REVISION.

In the Matter of

M. BARDE and J. LEVITT individually,
 and as partners as **BARDE & LEVITT,**
 Bankrupts.

And afterwards, to wit: on Monday, the 31st day of August, 1914, the same being the 49th Judicial day of the regular July, 1914, term of said court; present: the Honorable Robert S. Bean, United States District Judge, presiding, the following proceedings were had in said cause, to wit:

ORDER ALLOWING REVISION AND DESIGNATING RECORD ON REVIEW.

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF OREGON.

ORDER ALLOWING PETITION FOR REVISION AND DESIGNATING RECORD ON REVIEW.

In the Matter of

M. BARDE and J. LEVITT individually,
and as partners as **BARDE & LEVITT**,
Bankrupts.

On this, Monday, the 31st day of August, 1914, this cause coming on regularly to be heard on the application of R. L. Sabin as trustee in bankruptcy of the above entitled bankrupts for an order allowing his petition to the United States Circuit Court of Appeals for the Ninth Circuit for a revision and review of the order of this court made and entered on the 8th day of June, 1914, in the above entitled cause, and it appearing that due notice of such petition and application has been given to said bankrupt, M. Barde, it is

Ordered that said petition for revision and review be allowed as prayed for, and the following papers are hereby designated as the record used on the hearing and determination of the matter in this court, and such as are necessary for the consideration and determination of the question presented for review by said petition in said Circuit Court of Appeals for the Ninth Circuit, viz.:

1. Certificate of B. N. Hicks, referee, on petition for revision by this court, including

2. Petition of R. L. Sabin, as trustee in bankruptcy, for an order of sale of bankrupt's homestead;

3. Findings of fact, conclusions of law and order of referee on said petition.

4. Motion of R. L. Sabin as trustee for confirmation of order of referee.

5. Order made and entered June 8, 1914, by this court reversing the order of the referee and directing that the homestead claimed by the bankrupt, M. Barde, be set aside to him as exempt.

6. Opinion of Honorable R. S. Bean, District Judge, in deciding said matter.

7. Application of R. L. Sabin as trustee for allowance of his petition to the United States Circuit Court of Appeals for the Ninth Circuit for revision and review of said order of June 8, 1914.

8. Notice of presentation of petition for revision, and proof of service thereof.

9. This order allowing said application and designating papers for the record on such review.

R. S. BEAN,
District Judge.

Filed August 31, 1914. G. H. MARSH, Clerk.

UNITED STATES OF AMERICA,)
) ss.
DISTRICT OF OREGON,)

I, G. H. Marsh, Clerk of the District Court of the United States, for the District of Oregon, do hereby certify that the foregoing transcript of record in the matter of M. Barde and J. Levitt, individually and as partners, as Barde & Levitt, Bankrupts, has been prepared by me in accordance with the law and the rules of this court, and in accordance with the directions of the order allowing the petition for review, and that the same is a true and complete transcript of the record and proceedings as directed by said order had in said court and in said cause as the same appear of record and on file at my office, and in my custody.

And I further certify that the cost of the foregoing record is \$. and that the same has been paid by the petitioner, R. L. Sabin, Trustee.

In testimony whereof I hereunto set my hand and affix the seal of said court at Portland, in said district, on the.....day of....., 1914.

Clerk.